

**Call to Order:**

The meeting was called to order at 7:30 p.m. Present were Chair, Joan Duff, members Vincent Chiozzi, Jay Doherty, Eric Macaux, Lelani Loder (arrived at 7:36 PM), and associate member Zach Bergeron; also present was Jacki Byerley, Town Planner.

**Bond Takings:****Charles Circle**

Ms. Byerley informed the Board that Charles Circle is a subdivision whose last known construction was in 2007. In February, the developer was provided a list by DPW of 15 items that need to be finished in order for the street to be accepted as a public way. The developer has not contacted the Town with any intention to finish this work. The Town is currently holding a bond of \$59,900.00 to complete this work. If the Board finds the developer is in default, the funds would be seized, the Town would take the road by eminent domain and the DPW would finish the work.

Mr. Doherty commented that he went out to the site and the work clearly has not been done. Joseph Ciampa of 5 Charles Circle asked what the next steps would be if the developer was found in default. Ms. Byerley explained the bond taking process. He asked if the DPW would finish the work before the end of 2013, and Ms. Byerley stated that it may be possible. Mr. Ciampa requested a copy of the punch list of items from DPW. Mr. Doherty asked who currently maintains the road. Ms. Byerley explained that the Town plows the road and does trash pickup, but will not fix potholes or other binder coat maintenance until it is accepted as a public way. Taking the bond and having the DPW complete the work will speed up the process of having the street accepted as a public way at Town Meeting.

On a motion by Mr. Chiozzi, seconded by Mr. Doherty, the Board moved to find the developer in default of the approved subdivision as noted in the Charles Circle DPW Construction Punch List for Street Acceptance dated February 13, 2013 prepared by the Department of Public Works and further move the Board seize the funds held for the completion of the subdivision in accordance with the Board's Rules and Regulations. **Vote:** Unanimous (4-0).

**Christian Way**

Ms. Byerley informed the Board that Christian Way is a subdivision that was approved in 2008. This past winter, the DPW requested roadway paving so that Town plows would not hit the raised manholes. That work was done, but no other work listed in the DPW's punch list for street acceptance has been completed. Ms. Byerley did not hear from the developer after notifying them of this public hearing. She informed the Board she received an email from the developer's attorney after business hours today requesting a two-week continuance to dispute some of the items listed in DPW's memo.

Mr. Macaux asked Ms. Byerley what the date was on DPW's memo. Ms. Byerley stated that DPW's memo was dated February 13<sup>th</sup>, and on April 12<sup>th</sup> Ms. Byerley sent the notice of the public hearing by certified mail to the developer and by regular mail to their attorney. The certified letter was never picked up by the developer. Mr. Macaux asked when Ms. Byerley heard from the attorney, and she stated he emailed her after hours today.

**Bond Takings (cont'd):**

Mr. Chiozzi stated that the Board should start the process of taking the bond. Mr. Bergeron asked if it was an exercise in futility to take the bond only to have the developer appeal it. Mr. Chiozzi said that he would rather have the money. Ms. Byerley reminded the Board that there is a 20-day appeal period. Mr. Doherty asked if it is an active development and Ms. Byerley stated that it is an active development, but the Board does not bond the lots, only the roadway.

On a motion by Mr. Macaux, seconded by Mr. Doherty, the Board moved to find that Wiled Realty Trust has not fulfilled its obligation as required by the approval for Merrimack Estates/Christian Way Subdivision dated March 12, 2009 as noted in the Christian Way Remaining Construction Work dated February 13, 2013 prepared by the Department of Public Works and further moved the Board seize the funds held for the completion of the subdivision in accordance with the Board's Rules and Regulations. **Vote:** Unanimous (4-0).

**Dawn Circle**

Ms. Byerley explained that Dawn Circle is an older subdivision in which houses are still being built. The developer contacted Ms. Byerley after receiving the notice of this public hearing and made it known that he would like to complete the work for street acceptance. He has provided bids for the remainder of the work. The developer requested that the Board withhold finding of default until September 15, 2013 so that he can complete the work. The DPW feels that a more appropriate date is June 30<sup>th</sup>. This would allow the DPW to complete the work before the winter season if necessary.

Ms. Byerley is suggesting that the Board give the developer until the Board's first meeting in July to see what progress if any has been made. The Board can then make a decision on if they should seize the funds. Mr. Macaux asked how this situation was different from Christian Way. Ms. Byerley answered that, unlike Christian Way, the developer in this situation responded immediately after receiving the notice of bond taking and the submittal of bids for the completion of work.

On a motion by Mr. Macaux, seconded by Ms. Loder, the Board moved to continue the Dawn Circle aka Sunnyside Estates determination until the first meeting in July at which time the applicant must provide an updated construction progress report. **Vote:** Unanimous (5-0).

**Trinity Court:**

The Board opened the public hearings on an application by Andover Greenwood LLC for a Modification of a Definitive Subdivision, Modification of a Special Permit for Earth Movement, Modification of a Special Permit for Disturbance of Slopes in Excess of 35% and Modification of a Special Permit Watershed Protection Overlay District for Trinity Court. Ms. Byerley explained that in 2007 the Board approved a 4-lot subdivision known as Vraj Circle with 40 conditions. In 2010, Andover Greenwood LLC purchased the property and the Board granted their request to change the name to Trinity Court. At the time of the approval in 2007, an easement was needed on an abutting property for roadway grading. Andover Greenwood LLC has not been able to obtain the easement, so they are asking for a modification to realign the roadway.

**Trinity Court (cont'd):**

John Goldrosen of Kopelman and Paige, representing the applicant, added to the chronology of events that in 2010, the Planning Board reaffirmed the subdivision and special permit approvals and they were recorded. This request for modification is to shift the cul-de-sac to turn it 20 ft. along Greenwood Road, which will give it more of a right angle intersection with Greenwood Road and improve sight lines. After feedback received at the IDR, they will also be asking for waivers to eliminate the sidewalks, and will make changes to the water line and curbing. The original subdivision and special permit approvals all had the same 40 conditions. They are requesting a change to Condition No. 37, which put a buffer of vegetation between Lot 4 and the abutting property owned by the Schneiders. The request is to remove the sentence referring to buffering at the Schneider property because they have not reached an agreement for the easement. The buffer will now be put entirely on Lot 4. He also stated that Condition No. 38 regarding improvements to Greenwood Road to improve sight lines is no longer necessary because the road will be moved and improve sight lines, so they are asking that condition to be removed.

Fred Ford of Cammett Engineering gave an overview of the changes to the subdivision plan. He pointed out the catchbasins and stormwater detention basin that are original to the plan and stated that some of the drainage will be changed based on comments received at the IDR. He showed that the water main will be brought in from Greenwood Road and dead-ended at the cul-de-sac. The original plan showed the water line being looped out to June Street, but this has been changed per a request from the water department. Each of the four house lots will have sewer ejector pumps and there will be a force main running through an easement out to Green Meadow Lane tying into the sewer. The house sizes will be smaller than originally planned which will reduce the impervious area and improve drainage. Each lot has an infiltration system for rooftop runoff. The shifting of the road will result in over 260 ft. of sight distance in both directions on Greenwood Road. Michael Saccone of Andover Greenwood LLC stated that the Conservation Commission has agreed that it is an insignificant change and is okay with the modifications because they have not encroached on any wetland areas and have maintained all of the natural buffers.

Mr. Chiozzi asked for an explanation of the landscape buffer that they are requesting to eliminate. Mr. Ford explained that the abutter would not grant them an easement for the vegetative buffer, so it will now be located entirely on Lot 4. Mr. Chiozzi then asked if they need a construction easement and Mr. Ford replied that they did not. Mr. Loder asked if they had obtained the drainage easement for the back of the subdivision and Mr. Ford told her that they had. Mr. Saccone stated that they have agreed to all of the changes suggested in the IDR. This includes the installation of a school bus waiting platform in lieu of the sidewalks.

Mr. Chiozzi questioned why the water department did not want the looping. Ms. Byerley answered that the looping is unnecessary because it does not provide any hydraulic benefit to the existing distribution system. Part of their request for a waiver to dead end the water line will be for a change in the location of the hydrant, and they are now requesting two hydrants, one around Parcel B and one at the end of the cul-de-sac to help with flushing of the hydrant if it needed to take place. Mr. Chiozzi asked if the Fire Department is okay with this and Ms. Byerley stated that they want to review the revised plans.

**Trinity Court (cont'd):**

Mr. Doherty asked if the Police are okay with the sight distance since Greenwood Road curves. Ms. Byerley suggested that the Board conduct a site walk because the former and proposed roadways are staked out. Ms. Loder asked if the distance from the wetlands will remain the same and Mr. Cammett told her that it will.

Ms. Byerley reviewed the items that were discussed at the IDR. Mr. Chiozzi questioned if this site had had some hazardous materials on it. Ms. Byerley answered part of the original approval was that the site had to be cleaned up before construction could start. That process is complete and the documents are on file with the Board of Health. Ms. Loder asked if the gas line was not shown in the correct spot on the plan. Mr. Saccone answered that he recently received the correct plan from Columbia Gas and the plan will be revised to show the proper placement.

Scott Schneider of 171 Greenwood Road informed the Board that he hired Atlantic Engineering to do some site work because the current plan shows incorrect property lines. The property lines shown on the subdivision plan make his lot non-conforming. Ms. Duff asked how the property lines are incorrect. Mr. Schneider stated that there is a line in Parcel B and a line in Lot 4 that are incorrect, which shorten his frontage to 140 ft. He stated that the property lines were questioned when the plan was first drawn. Ms. Duff explained to Mr. Schneider that the Planning Board could not get involved in boundary disputes. Mr. Macaux questioned why this is being brought up during the modification. Mr. Schneider stated he hired a surveyor when Mr. Saccone stated that one of his arborvitaes was on the subdivision land. Ms. Loder noted that the modification is not shifting the property line shown on the original plan. Mr. Schneider stated that he had no issue with the subdivision in 2007 because his deed is his deed, but now feels his deed is being challenged. Mr. Bergeron asked if the survey of the developer and the survey Mr. Schneider commissioned are conflicting, and Mr. Schneider answered that they were. Mr. Chiozzi asked if the two surveyors have tried to resolve the issue. Mr. Saccone stated that the issue was resolved 14 months ago and the property lines were agreed upon by the engineers and recorded in 2007. The properties have been resurveyed by both Dana Perkins and Cuoco and Cormier, and the engineer for Dana Perkins has issued a letter stating that his survey is correct, and he stands by his work. Mr. Saccone noted that the boundaries were in place before he bought the property.

Mr. Goldrosen reminded the Board that the only thing before them is the modification of the roadway. It is otherwise the same plan that was approved by the Board in 2007 and reaffirmed in 2010. The boundary dispute does not affect the roadway. The Board discussed if the boundary dispute was in their jurisdiction and they agreed that it was not.

Brad Wright of 189 Greenwood Road informed the Board that he owns the property with the utility easement. He expressed concerns about the utility work disturbing pine trees on his property, as well as concerns about the possible erosion of a slope. He informed the Board he met with Mr. Saccone yesterday and he believes they have a verbal agreement, but he also submitted a statement to the Board about his concerns. Ms. Byerley explained that since the water main will no longer be looped, Mr. Wright's property would not be disturbed as much because only the sewer line will be going through. Jim Hayner of 185 Greenwood Road informed the Board that he is concerned about the slope disturbance. Ms. Byerley pointed out

**Trinity Court (cont'd):**

the area of slope disturbance and showed that area will be re-vegetated after the utility work is complete.

Ms. Byerley informed the Board that the applicant would be revising the plans based on the comments from the IDR.

On a motion by Mr. Macaux seconded by Ms. Loder, the Board moved to continue the four public hearings for modifications to Trinity Court to May 28<sup>th</sup> at 7:45 p.m. **Vote:** Unanimous (5-0).

The Board scheduled a site walk for Trinity Court for May 28, 2013 at 6:30 p.m. Mr. Saccone let the Board know that the orange stakes on the property are the original design on the centerline of the road and the white stakes with blue tops are the new design.

**Adjournment:** The meeting was adjourned at 8:22 p.m.